

STATE OF ALASKA

RECEIVED

By the Regulatory Commission of Alaska on Nov 01, 2023

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Keith Kurber II, Chairman
Robert A. Doyle
John M. Espindola
Robert M. Pickett
Janis W. Wilson

In the Matter of the Revenue Requirement Study)
Designated as TA3-198 Filed by DILLINGHAM)
WASTE MANAGEMENT, LLC) U-22-094
_____)

OFFICE OF THE ATTORNEY GENERAL'S SECOND MOTION TO COMPEL

Pursuant to 3 AAC 48.091 and 3 AAC 48.144, the Attorney General, Regulatory Affairs & Public Advocacy Section (RAPA), submits this motion to compel Dillingham Waste Management, LLC, (Dillingham Waste) to produce complete, substantive responses to AG-DWM-1, AG-DWM-2, and AG-DWM-3. This is a motion concerning discovery to which Dillingham Waste must respond in five days.¹

I. FACTS

RAPA previously filed a motion to compel seeking discovery responses on September 8, 2023.² That motion detailed RAPA's efforts to gather discovery from Dillingham Waste, and Dillingham Waste's failure to provide discovery.³ Dillingham

¹ 3 AAC 48.144(h); *See also* 3 AAC 48.091(l).

² Office of the Attorney General's Motion to Compel, September 8, 2023.

³ Office of the Attorney General's Motion to Compel, September 8, 2023, at 1-4.

1 Waste responded to RAPA’s motion by conceding it had not provided discovery, stating
2 it had hired a consultant that would make responding easier for it, and promising to
3 respond to RAPA’s discovery requests by October 16, 2023.⁴

4 RAPA replied to Dillingham Waste’s response on September 20, 2023, accepting
5 the October 16, 2023, deadline.⁵ The same day, RAPA sent Dillingham Waste another
6 discovery request seeking information on Dillingham Waste’s retention of a consultant.⁶
7 The Regulatory Commission of Alaska (the Commission) granted RAPA’s motion to
8 compel on September 25, 2023, and ordered Dillingham Waste to “file its response to
9 AG-DWM-1 and AG-DWM-2 by October 16, 2023.”⁷

11 Dillingham Waste filed a response to AG-DWM-1 on October 16.⁸ In its
12 response, Dillingham Waste did not substantively respond to AG-DWM-1-1, 2, 3, 4, 5,
13 6, 8, 10, 11, and 16.⁹ To these requests, Dillingham Waste either objected on relevance
14
15
16

17 ⁴ Dillingham Waste Management, LLC’s Response to Motion to Compel,
18 September 19, 2023, at 1-3.

19 ⁵ Office of the Attorney General’s Reply to Dillingham Waste Management, LLC’s
20 Response to Attorney General’s Motion to Compel, September 20, 2023.

21 ⁶ Office of the Attorney General’s Third Request for Discovery to Dillingham
22 Waste Management, LLC (AG-DWM-3) [Exhibit 1].

23 ⁷ Order U-22-094(6).

24 ⁸ Dillingham Waste Management, LLC’s Responses to Office of the Attorney
General’s First Request for Discovery [Exhibit 2].

25 ⁹ *Id.* at 1-8.

1 grounds, or stated it would provide information later in October.¹⁰ It has not
2 supplemented its response.

3 Dillingham Waste filed a response to AG-DWM-2 on October 17.¹¹ In its
4 response, Dillingham Waste did not substantively respond to AG-DWM-2-1, 2(a)-(b),
5 (2)(e), 3(a)-(b), 4, 5(a), 5(e)-(h), 9, and 10. Dillingham Waste stated it would provide a
6 response to AG-DWM-1-1 by October 23, 2023, which it did not do. Dillingham Waste
7 did not provide a date it would provide the other discovery responses it failed to
8 provide. It has not supplemented its response.

9
10 Dillingham Waste has also not responded to AG-DWM-3. RAPA inquired about
11 the status of response on October 19.¹² Dillingham Waste stated that it had a response
12 prepared but wanted a confidentiality agreement in place before providing it and offered
13 to send a proposed agreement the next day.¹³ RAPA agreed to Dillingham Waste's offer
14 to provide a proposed agreement.¹⁴ Dillingham Waste has not sent a proposed
15 confidentiality agreement.

16
17 //

18
19 //

20
21 ¹⁰ *Id.* at 1-8.

22 ¹¹ Dillingham Waste Management, LLC's Responses to Office of the Attorney
23 General's Second Request for Discovery [Exhibit 3].

24 ¹² Email from JC Croft to Mike Jungreis, October 19, 2023 [Exhibit 4].

25 ¹³ Email from Mike Jungreis to JC Croft, October 19, 2023 [Exhibit 4].

26 ¹⁴ Email from JC Croft to Mike Jungreis, October 20, 2023 [Exhibit 4].

II. ARGUMENT

The Commission’s regulations require parties to respond to discovery requests.¹⁵ If a discovery dispute arises between the parties, “the requesting party and the party from whom discovery is requested shall confer in good faith to resolve the dispute before filing a motion concerning discovery.”¹⁶ When a party files a motion to compel discovery responses, the motion “must describe the efforts made to resolve the discovery dispute.”¹⁷

RAPA detailed its efforts to resolve the discovery dispute in its prior motion to compel.¹⁸ Since then, RAPA agreed to an October 16 deadline for responses.¹⁹ The Commission ordered Dillingham Waste to comply with the October 16 deadline.²⁰ Dillingham Waste did not, and instead granted itself an extension of the Commission-ordered deadline. RAPA has waited until after Dillingham’s revised deadline passed, and now seeks further Commission intervention. Not only is it crucial that RAPA receive discovery responses so that it may progress its investigation, but it is also

¹⁵ 3 AAC 48.143(b).

¹⁶ 3 AAC 48.144(d).

¹⁷ 3 AAC 48.144(e).

¹⁸ Office of the Attorney General’s Motion to Compel, September 8, 2023, at 1-4.

¹⁹ Office of the Attorney General’s Reply to Dillingham Waste Management, LLC’s Response to Attorney General’s Motion to Compel, September 20, 2023.

²⁰ Order U-22-094(6).

important for the utility because it could lose its rights by failing to respond.²¹ The Commission should order Dillingham Waste to immediately provide complete, substantive responses to RAPA's discovery requests. As noted above, this motion is a motion concerning discovery to which Dillingham Waste must file a response in five business days.²²

DATED November 1, 2023, at Anchorage, Alaska.

TREG TAYLOR
ATTORNEY GENERAL

By: /s/ JC Croft
JC Croft
Assistant Attorney General
Office of the Attorney General
1031 West 4th Avenue, Suite 200
Anchorage, Alaska 99501
Phone: (907) 269-5187
Email: JC.Croft@alaska.gov
Alaska Bar No. 1711060

CERTIFICATE OF SERVICE

I certify that on November 1, 2023, a true and correct copy of the **Office of the Attorney General's Second Motion to Compel** was served via e-mail on the following:

Dillingham Waste Management, LLC
Jacques Smith, Owner
Delphine Smith, Bookkeeper
P.O. Box 97
Dillingham, AK 99576
Email: Jacksmithesq@hotmail.com
Corporate@Dillinghamwaste.com

Michael Jungreis, Counsel
Reeves Amodio, LLP
510 L Street, Suite 300
Anchorage, AK 99501
Email: MJ@reevesamodio.com
staff@reevesamodio.com

/s/ Amber L. Henry
Amber L. Henry/ Law Office Asst II

²¹ 3 AAC 48.155(c); See also Alaska Rules of Civil Procedure, Rule 37(a)(3) and Rule 37(b)(2)(C).

²² 3 AAC 48.144(g)-(h).

U-22-094 – Dillingham Waste Mgmt
AG Second Motion to Compel – November 1, 2023

Index of Exhibits

1. Office of the Attorney General's Third Request for Discovery to Dillingham Waste Management, LLC (AG-DWM-3) – 9/20/23
2. Dillingham Waste Management, LLC's Responses to Office of the Attorney General's First Request for Discovery – 10/16/23
3. Dillingham Waste Management, LLC's Responses to Office of the Attorney General's Second Request for Discovery – 10/17/23
4. October 19-20, 2023 Emails between AAG JC Croft and DWM Counsel Mike Jungreis re: Discovery Responses

U-22-094 – Dillingham Waste Mgmt
AG Second Motion to Compel – November 1, 2023

Exhibit 1

**Office of the Attorney General's
Third Request for Discovery to
Dillingham Waste Management, LLC
(AG-DWM-3) – 9/20/23**

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Keith Kurber II, Chairman
Robert A. Doyle
John M. Espindola
Robert M. Pickett
Janis W. Wilson

In the Matter of the Revenue Requirement Study)
Designated as TA3-198 Filed by DILLINGHAM)
WASTE MANAGEMENT, LLC) U-22-094
_____)

**OFFICE OF THE ATTORNEY GENERAL'S THIRD REQUEST FOR
DISCOVERY TO DILLINGHAM WASTE MANAGEMENT, LLC. (AG-DWM-3)**

Pursuant to AS 42.05.501(b), 3 AAC 48.141 - .144, and 3 AAC 48.155(a)(8),
providing the right to propound and obligation to respond to discovery in this matter,
the Office of the Attorney General, Regulatory Affairs & Public Advocacy Section
(RAPA) requests that Dillingham Waste Management, LLC. (DWM) respond to the
following discovery requests within ten (10) calendar days.

INSTRUCTIONS

1. These requests apply to all information and documents in your possession,
or subject to your custody or control, including information and documents in the
possession of or subject to the custody or control of your agents, including, but not
limited to, your attorneys, accountants, bookkeepers and tax preparers.

2. If any request is objected to, the reason for the objection must be stated in
writing. If an objection is made to a part of a request you should specify the part

1 objected to and should respond to the remaining parts of the request. If any request is
2 objected to on the basis that the document is privileged, please state the basis for your
3 contention the document is privileged. In addition, identify the specific document, the
4 date, the author of the document, the identity of all who participated in its preparation,
5 the identity of all persons to whom the document is or was addressed or distributed and
6 each person having custody or control of the documents at this time.

8 3. These discovery requests are intended to continue throughout this
9 proceeding. Responses are to be supplemented during the pendency of this matter in
10 accordance with Rule 26(e) of the Alaska Rules of Civil Procedure.

11 4. Legible copies of documents may be substituted for originals if they are
12 complete and correct copies of the originals. All responsive documents should be
13 segregated and designated as responsive to a particular request or to particular requests,
14 as the case may be.

15 5. For any and all data or other materials responsive to these requests except
16 text documents composed in word processing format, or image files not otherwise
17 available, please produce in Excel or Excel compatible spreadsheet format.

18 6. For any response that requires or includes computation and/or calculation,
19 please provide any and all relevant calculations electronically in Excel format, *with all*
20 *formulae and calculations intact.*

21 7. The term “documents” as used herein means all written or otherwise
22 recorded matter of every kind and description, however produced or reported, including
23
24
25
26

1 without limitation “writings” or “recordings” or “photographs” as specified in Rules
2 1001(1) and (2) of the Alaska Rules of Evidence.

3 8. If any response refers to a specific source document, please identify the
4 source document, specify the page that is referenced and provide a copy of the source
5 document.

6
7 9. In addition to service on counsel Jeffrey J. Waller and JC Croft, email
8 addresses jeff.waller@alaska.gov and jc.croft@alaska.gov, please provide a copy of the
9 requested data to Jennifer L. Mainor, Public Advocacy Utility Analyst for the
10 Regulatory Affairs & Public Advocacy Section of the Attorney General’s Office
11 (RAPA) at Suite 300, 701 West Eighth Avenue, Anchorage, AK 99501, e-mail address
12 Jennifer.mainor@alaska.gov, as well as Law Office Assistants Amber Henry and
13 Deborah Mitchell, amber.henry@alaska.gov and deborah.mitchell@alaska.gov.

14
15 10. Please provide the information requested in this discovery request within
16 10 calendar days. If not able to meet the deadline, please provide a preliminary
17 assessment of the status of DWM's responses to this data request. In the preliminary
18 assessment, please state all requested information for which DWM will not be able to
19 provide a complete response to us by the deadline. Please explain why DWM is unable
20 to meet the deadline for said items, and specify a date by which DWM will provide us
21 with complete responses to the requested information.

22
23 11. A discovery request may request documents, a narrative response as to an
24 interrogatory, or both. Please respond as appropriate.
25

12. For each response, if not obvious from context, please state (1) the name(s) and title(s) of the person(s) responsible for preparing the response, (2) the name(s) and title(s) of the person(s) who is competent to give testimony concerning the response, and concerning all documents produced as part of the response.

13. In this document, “Commission” or “RCA” refers to the Regulatory Commission of Alaska (or its predecessor, the Alaska Public Utilities Commission).

14. If not all of the information requested is available, provide the information that is available.

15. If the information requested in one part of a request is not available, the information that is available in response to other parts of that request should be provided.

DISCOVERY REQUESTS

AG-DWM-3-1. Please refer to DWM’s Response to Motion to Compel, stating:

However, revenue from the just-passed summer season has enabled DWM to retain Pacific Financial Consulting Services, LLC, whose principal has extensive experience in regulatory affairs for an Alaska waste hauling utility. In consultation with the undersigned, that principal, Heather Garland, has committed to respond to the outstanding discovery by October 16, 2023.

(a) Please provide copies of any and all contracts and agreements between Dillingham Waste Management, LLC, and Pacific Financial Consulting Services, LLC.

(b) Please state and provide documentation of the effective date of the contracts and agreements, the services to be provided, and the rate to be charged.

(c) If DWM is unable to provide responses to either subpart (a) or (b), please explain why.

DATED September 20, 2023, at Anchorage, Alaska.

TREG R. TAYLOR
ATTORNEY GENERAL

By: /s/ JC Croft
JC Croft
Assistant Attorney General
Office of the Attorney General
1031 West 4th Avenue, Suite 200
Anchorage, Alaska 99501
Phone: (907) 269-5187
Email: JC.Croft@alaska.gov
Alaska Bar No. 1711060

CERTIFICATE OF SERVICE

I hereby certify that on September 20, 2023, a true and correct copy of the **Office of the Attorney General's Third Request for Discovery to Dillingham Waste Management, LLC (AG-DWM-3)** was served via e-mail on the following:

Dillingham Waste Management, LLC
Jacques Smith, Owner
Delphine Smith, Bookkeeper
P.O. Box 97
Dillingham, AK 99576
Email: Corporate@Dillinghamwaste.com

Michael Jungreis, Counsel
Reeves Amodio, LLP
510 L Street, Suite 300
Anchorage, AK 99501
Email: MJ@reevesamodio.com
staff@reevesamodio.com

/s/ Deborah A. Mitchell
Deborah A. Mitchell
Law Office Assistant II

U-22-094 – Dillingham Waste Mgmt
AG Second Motion to Compel – November 1, 2023

Exhibit 2

**Dillingham Waste Management, LLC's
Responses to Office of the Attorney General's
First Request for Discovery
(AG-DWM-1) – 10/16/23**

REEVES AMODIO LLC
500 L STREET, SUITE 300
ANCHORAGE, ALASKA 99501-1990
PHONE (907) 222-7100, FAX (907) 222-7199

Before Commissioners:

In the Matter of the Revenue Requirement
Study Designated as TA3-198 Filed by
DILLINGHAM WASTE MANAGEMENT,
LLC

U-22-094

DISCOVERY REQUESTS

AG-DWM-1-1.

Response: DWM is still working to on its Excel files to ensure their accuracy, and

Designated Hearing Witness: Jacques Smith

AG-DWM-1-2.

documentation relied upon, and all calculations for the amounts shown on each schedule within the studies. Please identify the person who prepared each workpaper.

Response: This material is being collected and will be provided prior to the end of October, 2023.

Answering Witness: Jacques Smith

Designated Hearing Witness: Jacques Smith

AG-DWM-1-3. Please provide a legend defining each account, sub-account, or subclass, each journal code, and each acronym used in DWM's accounting system.

Response: This will be provided on October 17, 2023.

Answering Witness: Jacques Smith

Designated Hearing Witness: Jacques Smith

AG-DWM-1-4. Please provide electronically in *Excel* format with formulas intact each schedule within DWM's revenue requirement studies.

Response: DWM is still working to on its Excel files to ensure their accuracy, and will provide them prior to the end of October, 2023

Answering Witness: Jacques Smith

Designated Hearing Witness: Jacques Smith

AG-DWM-1-5. Please produce or make available DWM's continuing property records (CPRs) from date of inception to the current date that provide a detailed accounting of each plant, property, and equipment item from each account; including additions, retirements, and transfers along with the accumulated depreciation and depreciation expense for each year for each item.

Response: This material is being collected and will be provided prior to the end of October, 2023.

Answering Witness: Jacques Smith

Designated Hearing Witness: Jacques Smith

AG-DWM-1-6. Please provide in native format all supporting documentation, workpapers, and calculations relied upon by DWM for each pro forma adjustment included in the revenue requirements included with TA3-198.

Response: This material is being collected and will be provided prior to the end of October, 2023.

Answering Witness: Jacques Smith

Designated Hearing Witness: Jacques Smith

AG-DWM-1-7. To the extent not provided in response to other questions included in this data request, please provide copies of all responses and relevant

documents provided to RCA Staff questions related to this docket. Provide any such documents in native format.

Response: No such correspondence has been retained. DWM is reviewing its records but believes that no responsive records exist.

Answering Witness: Jacques Smith

Designated Hearing Witness: Jacques Smith

AG-DWM-1-8. Please provide copies of DWM's 2020, 2021, and 2022 trial balances.

Response: This material is being collected and will be provided prior to the end of October, 2023.

Answering Witness: Jacques Smith

Designated Hearing Witness: Jacques Smith

AG-DWM-1-9. Please provide, in electronic format, copies of 2020, 2021, and 2022 general ledgers for each DWM affiliate that has accounts from which costs are directly assigned or allocated to DWM. Identify all general ledger accounts where costs that are directly assigned or allocated to DWM are recorded.

Response: DWM does not have any affiliates, therefore this question is not applicable.

Answering Witness: Jacques Smith

Designated Hearing Witness: Jacques Smith

AG-DWM-1-10. Please refer to the Prefiled Direct Testimony of Jacques Smith, at Q/A 4, lines 32-35, pertaining to the high cost of local consultants.

(a) Please state the names of the consultants for which quotes were received for 2018, 2019, and 2020.

(b) Please state the amounts for each quote received for years 2018, 2019, and 2020.

(c) Please produce documents supporting the response to subparts (a) and (b).

Response: Objection DWM respectfully finds these questions irrelevant because DWM did not engage external consultants, therefore there is no impact to the ratepayer.

Answering Witness: Jacques Smith

Designated Hearing Witness: Jacques Smith

AG-DWM-1-11. Please refer to the Prefiled Direct Testimony of Jacques Smith, at Q/A 4, lines 32-35, pertaining to the high cost of local consultants. Has DWM received quotes from “established local consultants” in 2021?

(a) If the response is affirmative, please state the names and amounts of the quotes received in 2021.

(b) If the response is affirmative, please produce documents supporting the response.

(c) If the response is negative, please state what DWM believes the truth of the matter to be.

Response: Objection. DWM respectfully finds these questions irrelevant because DWM did not engage external consultants, therefore there is no impact to the ratepayer.

Answering Witness: Jacques Smith

Designated Hearing Witness: Jacques Smith

AG-DWM-1-12. Do the personnel costs included by DWM in its test year costs as part of its revenue requirement filed in this docket include any bonus or incentive payments? If the response is affirmative, please identify the bonus or incentive payments included in the requested revenue requirement.

Response: There are no bonuses or incentive payments included in the test year.

Answering Witness: Jacques Smith

Designated Hearing Witness: Jacques Smith

AG-DWM-1-13. Refer to TA Letter TA3-198, page 26, workpaper: *Lurito – Gallagher Formula Model*, filed with the Commission on October 28, 2022. Please produce this workpaper in *Excel* format with all formulas intact.

Response: Objection. DWS respectfully finds this question outdated and irrelevant as a new filing with a test year of 2022 was filed on January 27, 2023. The Excel

Lurito-Gallagher for the 2022 test period will be provided in response to Discovery Request #2.

Answering Witness: Jacques Smith

Designated Hearing Witness: Jacques Smith

AG-DWM-1-14. Does DWM or any of its affiliates have any ownership interest in any transfer station or landfill used by DWM? If so, please provide a list of those transfer stations or landfills.

Response: DWM does not have any ownership interest in any transfer station or landfill used by DWM. DWM has no affiliates.

Answering Witness: Jacques Smith

Designated Hearing Witness: Jacques Smith

AG-DWM-1-15. Does DWM or any of its affiliates have any contracts to provide transportation service between any transfer station and landfill in its service territory? If so, please provide a copy of those contracts.

Response: DWM does not have any contracts to provide transportation service between any transfer station and landfill in its service territory. DWM does not have any affiliates.

Answering Witness: Jacques Smith

Designated Hearing Witness: Jacques Smith

AG-DWM-1-16. Refer to TA Letter TA3-198, page 14, workpaper: *Balance*

Sheet Comparison, filed with the Commission on October 28, 2022.

- (a) Has DWM calculated a rate base for 2021?
- (b) If the response is affirmative, please provide all supporting workpapers and calculations with formulas intact.
- (c) Admit Total Fixed Assets for 2021 is \$912,376.41
- (d) Admit Total 17000 Accumulated Depreciation for 2021 is -\$314,411.00
- (e) If the response to any of the above subparts is affirmative, please provide a schedule with account balances for total fixed assets and total accumulated depreciation as of the beginning of each month in 2021. Please ensure that all formulas are intact.
- (f) If the response to subparts (a) and (b) is negative, please explain what DWM believes the truth of the matter to be.

Response:

(a-c) Objection. DWS respectfully finds these questions irrelevant because they do not pertain to the revised revenue requirement study TA3-198, submitted January 23, 2023, and have no impact on ratepayers.

Answering Witness: Jacques Smith

Designated Hearing Witness: Jacques Smith

AG-DWM-1-17. Please refer to the Prefiled Direct Testimony of Jacques Smith, at Q/A 3, lines 21-27, pertaining to the use of the Lurito Gallagher Methodology. Please explain the rationale for DWM's proposed use of an operating ratio methodology in its revenue requirement calculation, as opposed to a rate base rate of return methodology.

Response: Operating ratio (OR) or modified operating ratio, which the Lurito Gallagher (LG) uses, are industry standard in the solid waste industry. I have thirteen years of experience consulting in the solid waste industry in Washington, Oregon, and California. Each of these states utilize the OR or modified OR methodology. Solid waste utilities simply do not have the magnitude or type of capital investment to allow for proper return under the rate base rate of return methodology. Solid Waste utility asset base is far less significant than other utilities, such as electric, where rate base rate of return is an industry standard. Further, rate base in other types of utilities often includes other components such as contributions in aid of construction, customer advances for construction, accumulated deferred income taxes, and accumulated deferred investment tax credits, none of which generally exist in the asset base in the solid waste industry. RAPA is encouraged to review the depreciation schedules submitted or to be submitted with DWM's discovery responses to fully understand the nature of DWM's asset structure. It is important to reiterate that the LG model does include a capital component, and relies on the "intersection" of revenue, expense, and net book value to arrive at a fair OR.

Please see attached document “DWM 0840 - 0863 1990 LG Order - TG-900657 Fifth Supplemental” for a full explanation of why the LG is the preferred method of solid waste rate setting in Washington State.

Answering Witness: Heather Garland

Designated Hearing Witness: Heather Garland

DATED this [] day of October 2023, at Anchorage, Alaska.

REEVES AMODIO LLC
Attorneys for Dillingham Waste Management

By: /s/ Michael Jungreis
Michael Jungreis
mj@reevesamodio.com
ABA No. 7711184

CERTIFICATE OF SERVICE

I hereby certify that on October 16th, 2023,
a true and correct copy of the foregoing was
served via e-mail on the following:

Jeffery J. Waller, Chief Attorney General
JC Croft, Assistant Attorney General
Department of Law
Regulatory Affairs & Public Advocacy Section
1031 West 4th Avenue, Suite 200
Anchorage, Alaska 99501
jeff.waller@alaska.gov
JC.Croft@alaska.gov

/s/ Mohasen Sharife
Mohasen Sharife

U-22-094 – Dillingham Waste Mgmt
AG Second Motion to Compel – November 1, 2023

Exhibit 3

**Dillingham Waste Management, LLC's
Responses to Office of the Attorney General's
Second Request for Discovery
(AG-DWM-2) – 10/17/23**

REEVES AMODIO LLC
500 L STREET, SUITE 300
ANCHORAGE, ALASKA 99501-1990
PHONE (907) 222-7100, FAX (907) 222-7199

Before Commissioners:

In the Matter of the Revenue Requirement
Study Designated as TA3-198 Filed by
DILLINGHAM WASTE MANAGEMENT,
LLC

U-22-094

DISCOVERY REQUESTS

Please refer to the Prefiled Direct Testimony of Jacques Smith, at

(a) Did DWM include consulting fees, legal fees, or any other fees for consulting in 22 revenue requirement? Why or why not?

(b) If the response to subpart (a) is affirmative, please state the total amount of fees and the amount for each consultant and attorney.

(c) If the response to subpart (a) is affirmative, please produce the invoices for each consultant and attorney.

(d) If the response to subpart (a) is affirmative, please identify the balance sheet account in which each consulting fee and legal fee is included.

Response: DWM is gathering this information and will supplement this response by October 23, 2023.

Answering Witness:

Designated Hearing Witness:

AG-DWM-2-2. Please refer to the Prefiled Direct Testimony of Jacques Smith, at Q/A 7, pertaining to the estimated increase in tipping fees.

(a) Please produce a copy of the August 23, 2022, letter from the Alaska Department of Environmental Conservation, Division of Environmental Health.

(b) Please produce all invoices for tipping fees for DWM for 2021, 2022, and 2023-to-date.

(c) Please state whether DWM intends to use a balancing account to capture any over or under recovery of tipping fees.

(d) Please produce a narrative of the tipping fee surcharge and how it is calculated.

(e) Please produce the calculation for the tipping fee, with all formulas intact.

(f) Does DWM intend to submit a separate tariff sheet containing the tipping fee surcharge to the Commission for approval?

(g) Do DWM's approved interim rates collect any or all of the tipping fee surcharge?

Response:

(a) DWN is attempting to locate this letter; it will be provided when and if it is located.

(b) Tipping fee invoices were previously provided in DWM's discovery response dated March 17, 2023 – Bates No. DWM 0001-0678.

DWM respectfully objects to the request for invoices through 2023 current, as they are not requesting a disposal surcharge. The request in TA-198 was only to add disposal surcharge language to recover future increases in the tipping fee.

- (c) Yes, DWM intends to use a balancing account.
- (d) Please see attached file "*DWM 2-2 Disposal Surcharge Formula*," Bates No. DWM-0864.
- (e) This calculation has not been completed but will be produced as soon as that is completed.
- (f) Yes, when DWM files for a disposal surcharge a separate tariff page will be submitted.
- (g) No. The interim rates do not include a disposal surcharge.

Answering Witness: Jacques Smith

Designated Hearing Witness: Jacques Smith

AG-DWM-2-3. Please refer to the Prefiled Direct Testimony of Jacques Smith, at Q/A 6, pertaining to the proposed fuel surcharge.

- (a) Please produce a copy of the fuel surcharge calculation, with all formulas intact.
- (b) Please produce all fuel invoices for trucks used in utility service and a list of all trucks used for refuse pick up.
- (c) Please state whether DWM intends to use a balancing account to capture any over or under recovery of tipping fees.
- (d) Please provide a narrative of the fuel surcharge and how it is calculated.

(e) Does DWM intend to submit a separate tariff sheet containing the fuel surcharge to the Commission for approval?

(f) Do DWM's approved interim rates collect any or all of the proposed fuel surcharge?

Response:

(a) This calculation has not been completed but will be produced as soon as that is completed..

(b) Invoices were provided in DWM's discovery response dated March 17, 2023. Bates No. DWM 0679-0833. DWM will provide fuel invoices through current to ensure the revenue requirement reflects the most recent cost of fuel.

(c) Yes, DWM intends to use a balancing account for its fuel surcharge.

(d) See attached file "*DWM 2-3 Fuel Surcharge Formula*," Bates No. DWM-0865.

Answering Witness: Jacques Smith

Designated Hearing Witness: Jacques Smith

AG-DWM-2-4. Refer to the supplemental letter to TA Letter TA3-198, workpaper: *Lurito – Gallagher Formula Model*, page 12 and workpaper: *INPUTS – Test Year*, page 14, filed with the Commission on January 27, 2023. Please produce these workpapers in *Excel* format with all formulas intact.

Response: These workpapers are being created in Excel format and will be produced as soon as that is completed.

Answering Witness:

Designated Hearing Witness:

AG-DWM-2-5. Refer to supplemental letter to TA Letter TA3-198, pages 9-11, workpaper: *Balance Sheet*, filed with the Commission on January 27, 2023.

- (a) Admit Total Fixed Assets for 2022 less accumulated depreciation and accumulated amortization is \$1,531,538.18.
- (b) Of the \$588,952.56 DWM includes for Shop Building/Land, please state the amount for land that is included in the Fixed Assets total.
- (c) Please explain what DLGW Purchase is.
- (d) Does DWM own or rent any of its assets?
- (e) If the response to subpart (d) is affirmative, please state which assets DWM owns and which assets DWM rents. Please include the amount for each asset included in this response.
- (f) Admit Total 17000 Accumulated Depreciation for 2022 is -\$313,235.00.
- (g) If the response to subpart (f) is affirmative, please identify the depreciable plant used to derive the total in the Accumulated Depreciation account. Please include the purchase date, purchase amount, depreciation rate, accumulated depreciation, and life of each asset.
- (h) If the response to subpart (f) is negative, please state what DWM believes the truth of the matter to be and produce the depreciable plant used to derive the amount provided in this response. Please include the purchase date, purchase amount, depreciation rate, accumulated depreciation, and life of each asset.

Response:

- (a) DWM is in the process of preparing a revised revenue requirement and supporting workpapers. DWM will confirm the net fixed asset balance with this revised revenue requirement.
- (b) Shop land – value of \$29,889. A detailed depreciation schedule will be submitted to support this value.
- (c) DLGW purchase is the initial loan to purchase DWM.
- (d) DWM owns all assets.
- (e) A detailed depreciation schedule will follow with the revised revenue requirement calculations.
- (f) DWM is in the process of preparing a revised revenue requirement and supporting workpapers. DWM will confirm the accumulated depreciation balance with the revised revenue requirement.
- (g) A detailed depreciation schedule will follow with the revised revenue requirement calculations.
- (h) A detailed depreciation schedule will follow with the revised revenue requirement calculations.

Answering Witness: Jacques Smith

Designated Hearing Witness: Jacques Smith

AG-DWM-2-6. Please refer to the Prefiled Direct Testimony of Jacques Smith, at Q/A 5, pertaining to the use of the Lurito Gallagher Methodology.

- (a) Did Mr. Smith or any other individual on behalf of DWM calculate the Operating Ratio using the Dupont Model?

(b) If the response to subpart (a) is affirmative, please produce the calculation and all supporting documents and workpapers with formulas intact.

(c) Please produce copies of all orders relied upon by DWM where the Lurito Gallagher Model has been approved by any regulatory body.

(d) Refer to the Lurito Gallagher Formula Model, page 12. Admit that the operating ratio calculated in the model accurately reflects the operating ratio results using the approved Washington Lurito Gallagher Model.

(e) If the response to subpart (d) is anything other than an unqualified admission, please state what DWM believes the approved Washington Lurito Gallagher Model results should be and produce DWM's calculation.

Response:

(a) The operating ratio was not calculated using the Dupont Model.

(b) N/A

(c) Please see attached Policy Statement (*DWM 2-6 - TG-131255 Solid Waste Rate Setting Methodology - Policy Statement*, Bate No. DWM 0866 - 0871) issued by the Washington Utilities and Transportation Commission (WUTC) TG-131255 in which the Commission approved the Lurito Gallagher (LG). Please note the LG has been used in Washington State since approximately 1988. The LG model is available to the public on the WUTC's website, indicating it is the rate making model for solid waste companies in Washington State.

In addition, RAPA settled on the use of the LG in dockets U-20-002 through U-20-010.

Expert testimony was submitted as part of RAPA's discovery in those dockets and supports the use of the LG.

(e) DWM admits that the operating ratio calculated in the model accurately reflects the operating ratio results using the approved Washington Lurito Gallagher Model.

(f) Not applicable. See response to subpart (e) above.

Answering Witness: Jacques Smith

Designated Hearing Witness: Jacques Smith

AG-DWM-2-7. Please refer to the Prefiled Direct Testimony of Jacques Smith, at Q/A 10, pertaining to the planned significant capital investment in 2023.

(a) Describe the significant capital investment planned for 2023 and state the date of each capital investment.

(b) Does DWM have invoices, contracts, or other documentation that supports a payment obligation of \$1.4 million of planned capital investment for 2023? If so, please provide. If not, explain why not.

(c) Will any of the significant 2023 capital investment include the purchase of equipment? If so, please identify and describe all such equipment that DWM intends to purchase in 2023 and produce an estimated purchase date for each item of equipment.

(d) For any equipment identified in response to subpart (c), please state the purchase price, expected life, and the depreciation rate for each piece of equipment.

(e) For each item of equipment identified in response to subpart (c), explain in detail why DWM needs each item of equipment to be able to provide safe and reliable service to its customers.

Response:

(a) The \$1.4 million of planned capital investment has been drastically decreased due to the still pending rate case. Without a rate increase, DWM does not have the means to proceed with capital investment. The current expected 2024 capital investment is as follows:

- 2 Rear-Load trucks; \$203,000 each plus freight to ship to Dillingham, expected to arrive Spring 2024, 10-year useful life.
- Purchase of a warehouse – to be used as a truck shop/indoor parking; \$480,000; Q1 2024, 39-year useful life.
- 108-4Yd containers - \$154,440 plus freight to Dillingham. 5-year useful life.

(b) See attached file “*DWM 2-7(b) 2023 Truck Chassis Invoices*,” Bates No. DWM-0872-0890. Quotes for the bodies will follow.

DWM has not yet entered into a contract for the warehouse. Verbal commitments have been made. This transaction is confidential. The warehouse is locally owned and there are other bidders who would like to acquire the warehouse, but the owner is holding out for DWM, pending rate case status.

(c) See response to subpart (a) above.

(d) See response to subpart (a) above.

(e) Trucks – DWM’s trucks average from model year 1999 – 2013. That fleet age is not feasible for vehicles that are driven every day, stopping hundreds of times a day, sometimes on unkept gravel roads. In addition, the repairs and maintenance costs increase as trucks age. If trucks breakdown there can be service disruptions, which is not acceptable for DWM or their customers. DWM is well overdue for new trucks and hopes the settlement of this rate case will provide the much-needed margins to reinvest in capital.

Warehouse – DWM does not have a place to park its trucks inside to be worked on or stored during the cold winter nights. It is important that the trucks can be worked on out of the elements for employee safety and moral. Having a truck shop is standard in any industry where vehicles and equipment are used.

Containers - DWM has not purchased containers since the acquisition in 2018. Those containers were already well worn due to hard weather conditions and use. Containers are a necessity in providing save and reliable garbage service.

Answering Witness: Jacques Smith

Designated Hearing Witness: Jacques Smith

AG-DWM-2-8. Please refer to the Prefiled Direct Testimony of Jacques Smith, at Q/A 11, pertaining to new tariff language.

- (a) Please identify each tariff sheet and what tariff language DWM intends to amend.
- (b) Please explain why amended tariff language was not included with the supplemental filing filed with the Commission on January 27, 2023.

Response:

(a) Current first sentence of Rule 225:

“The rates set forth below are based upon time consumed by the Utility for performing occasional or unscheduled pickups for customers.

Proposed Amended first sentence of Rule 225:

“The rates set forth below are based upon time consumed by the Utility for performing occasional or unscheduled pickups for customers All charges in this section are in addition to charges approved in Rule 325 and 326.”

Please see attached file “*DWM 2-8 TA4-198 Errata to Rule 225*” Bates No. DWM-0891 for more information on this tariff change.

(b) There was a delay in filing this errata to Rule 225 as DWM worked with the RCA on this issue.

Answering Witness: Jacques Smith

Designated Hearing Witness: Jacques Smith

AG-DWM-2-9.

Please refer to the workpaper entitled *Rate Changes*, page 6, line 8, and DWM’s response to Q/A 9, provided with DWM’s supplemental filing on January 27, 2023.

(a) Please produce all information, including actual costs, supporting the proposed permanent tariff rate of \$200 for additional, occasional, or unscheduled pickup service in Excel with all formulas intact.

(b) Does DWM intend to request an interim and refundable rate for additional, occasional, or unscheduled pickup service? If not, explain why not. If so, state when DWM intends to make the filing with the Commission.

Response: DWM is compiling this information and will produce it as soon as it is available.

Answering Witness:

Designated Hearing Witness:

AG-DWM-2-10. Please refer to the Balance Sheet, account 30700 Members Draw on page 3, provided in a supplemental filing on January 27, 2023.

- (a) Please state whether the -\$161,017.72 are wages for Mr. Smith.
- (b) If the response to subpart (a) is negative, please state what DWM believes the truth of the matter to be.
- (c) If the response to subpart (a) is affirmative, please produce a job description for Mr. Smith, including hours worked per month and salary.
- (d) Please state whether Mr. Smith has a salary separate from the \$161,017.72 identified above that is included in the 2022 revenue requirement.
- (e) If the response to subpart (d) is affirmative, please state the account in which Mr. Smith's salary is included. Please include the amount of any recorded salary in this account.

Response: DWM is compiling this information and will produce it as soon as it is available.

Answering Witness:

Designated Hearing Witness:

DATED this 17th day of October 2023, at Anchorage, Alaska.

REEVES AMODIO LLC
Attorneys for Dillingham Waste Management

By: /s/ Michael Jungreis
Michael Jungreis
mj@reevesamodio.com
ABA No. 7711184

CERTIFICATE OF SERVICE

I hereby certify that on October 17th, 2023,
a true and correct copy of the foregoing was
served via e-mail on the following:

Jeffery J. Waller, Chief Attorney General
JC Croft, Assistant Attorney General
Department of Law
Regulatory Affairs & Public Advocacy Section
1031 West 4th Avenue, Suite 200
Anchorage, Alaska 99501
jeff.waller@alaska.gov
JC.Croft@alaska.gov

/s/ Mohasen Sharife
Mohasen Sharife

U-22-094 – Dillingham Waste Mgmt
AG Second Motion to Compel – November 1, 2023

Exhibit 4

**October 19-20, 2023 Emails between
AAG JC Croft and DWM Counsel Mike
Jungreis re: Discovery Responses**

From: [Croft, JC \(LAW\)](#)
To: [Mike Jungreis](#); [Waller, Jeffery J \(LAW\)](#)
Subject: RE: More discovery responses - DWM
Date: Friday, October 20, 2023 8:31:00 AM
Attachments: [image001.png](#)

Hi Mr. Jungreis,

Thank you for the update. Please feel free to send the proposed agreement.

Best Regards,

JC Croft
Assistant Attorney General
Regulatory Affairs & Public Advocacy Section
Department of Law
1031 W. 4th Avenue Suite 200
Anchorage, AK 99501
907-269-5100

This message contains information that may be confidential or privileged. Unless you are the addressee you are hereby notified that you may not review, use, copy, disseminate, distribute or disclose to anyone the message or any information contained in the message or its attachments. If you have received the message in error, please advise the sender immediately by reply e-mail or by telephone at (907) 269-5107 and then immediately delete the message and all its attachments.

From: Mike Jungreis <mj@reevesamodio.com>
Sent: Thursday, October 19, 2023 6:52 PM
To: Croft, JC (LAW) <JC.Croft@alaska.gov>; Waller, Jeffery J (LAW) <jeff.waller@alaska.gov>
Subject: RE: More discovery responses - DWM

JC – we have a response ready but would like to get a confidentiality agreement in place, some of the items in that document are sensitive (e.g., consulting contracts). Can I send you a proposed agreement tomorrow?

M

Michael Jungreis

Reeves Amodio LLC
Main: 907-222-7100
Direct: 907-222-7105
mj@reevesamodio.com



REEVES AMODIO LLC
ATTORNEYS AT LAW

500 L Street, Ste 300, Anchorage, Alaska 99501

Visit us online at reevesamodio.com

From: Croft, JC (LAW) <JC.Croft@alaska.gov>
Sent: Thursday, October 19, 2023 8:08 AM
To: Mike Jungreis <mj@reevesamodio.com>; Waller, Jeffery J (LAW) <jeff.waller@alaska.gov>
Subject: RE: More discovery responses - DWM

Hello Mr. Jungreis,

Did DWM provide a response to AG-DWM-3? I have not seen it.

Best Regards,

JC Croft
Assistant Attorney General
Regulatory Affairs & Public Advocacy Section
Department of Law
1031 W. 4th Avenue Suite 200
Anchorage, AK 99501
907-269-5100

This message contains information that may be confidential or privileged. Unless you are the addressee you are hereby notified that you may not review, use, copy, disseminate, distribute or disclose to anyone the message or any information contained in the message or its attachments. If you have received the message in error, please advise the sender immediately by reply e-mail or by telephone at (907) 269-5107 and then immediately delete the message and all its attachments.

From: Mike Jungreis <mj@reevesamodio.com>
Sent: Tuesday, October 17, 2023 9:19 AM
To: Waller, Jeffery J (LAW) <jeff.waller@alaska.gov>; Croft, JC (LAW) <JC.Croft@alaska.gov>
Subject: More discovery responses - DWM

CAUTION: This email originated from outside the State of Alaska mail system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Gentlemen: just letting you know that more discovery responses will be sent to you this afternoon;

we are continuing to put them together.

Mike

Michael Jungreis

Reeves Amodio LLC
Main: 907-222-7100
Direct: 907-222-7105
mj@reevesamodio.com



REEVES AMODIO LLC
ATTORNEYS AT LAW

500 L Street, Ste 300, Anchorage, Alaska 99501

Visit us online at reevesamodio.com
